

BEFORE THE
POSTAL REGULATORY COMMISSION
WASHINGTON, D.C. 20268-0001

In the Matter of:

Freehold Trailer/Lafayette
Station
Freehold, New Jersey 07728
(A. Richard Gatto, Petitioner)

Docket No. A2011-19

**RESPONSE OF UNITED STATES POSTAL SERVICE TO PETITIONER'S
APPLICATION FOR SUSPENSION OF DISCONTINUANCE FOR THE
FREEHOLD TRAILER, FREEHOLD, NEW JERSEY 07728
(July 5, 2011)**

On June 22, 2011, Petitioner filed an application to suspend the discontinuance of the Freehold Trailer (the "Application").¹ By means of Order No. 754 (June 28, 2011), the Postal Regulatory Commission (Commission) docketed correspondence from A. Richard Gatto (on behalf of the Freehold Center Management Corporation) and Duane O. Davison (on behalf of the Township of Freehold, New Jersey), assigning PRC Docket No. A2011-19 as an appeal pursuant to 39 U.S.C. § 404(d). The Freehold Trailer is scheduled to close on July 29, 2011. See Application, Exhibit 1. As explained below, Petitioner's Application should be denied.

As an initial matter, this appeal is not within the scope of the Commission's jurisdiction under 39 USC § 404(d). The Freehold Trailer is not an independent Post Office so Commission jurisdiction under 39 U.S.C. § 404(d) does not attach. As the Commission is well aware, the Postal Service understands that the Commission lacks subject matter jurisdiction under 39

¹ Petition for Review, Application for Suspension of Determination of the Postal Service to Close Lafayette Postal Trailer Pending Appeal and Petition for Review, Request for Oral Arguments, filed by A. Richard Gatto, Freehold Center Management Corporation, PRC Docket No. A2011-19 (June 22, 2011).

U.S.C. § 404(d) to review Postal Service decisions regarding the discontinuance of stations and branches. See *generally* Reply Brief of the United States Postal Service, section III (pp. 6-12), PRC Docket No. N2009-1 (December 16, 2009); Comments of United States Postal Service Regarding Jurisdiction Under (Current) Section 404(d), PRC Docket No. A2010-3 (April 19, 2010).² In the Postal Service's view, the Post Office discontinuance regulations in 39 C.F.R. Part 241.3 and Handbook PO-101 do not apply to the Freehold Trailer because the Freehold Trailer is not an independent Post Office. Similarly, the Commission's Rules of Practice for Post Office closings found in section 3001.110 et seq. do not apply in this instance. Petitioner fails to allege facts that constitute a condition precedent to any jurisdiction of the Commission under section 404. 39 U.S.C. § 404(d)(5).

Second, even assuming section 404(d) were interpreted to embrace the discontinuance of stations and branches, this proceeding does not involve a loss of retail services to the community for reasons that match those in PRC Docket No. A2010-3. In that proceeding, the Commission concluded that the section 404(d) procedural requirements apply only where postal customers lose access to postal services, and postal customers do not lose access to postal services where alternate retail facilities are located in "close proximity" to the discontinued station.³ Because of the close proximity of other postal facilities and the availability of postal services through <http://www.USPS.com/> and other expanded

² In turn, the Postal Service is well aware that the Commission claims a broader jurisdiction.

³ PRC Order No. 477, Order Dismissing Appeal, Docket No. A2010-3, June 22, 2010, at 7-8.

access options, the discontinuance of the Freehold Trailer will not cause postal customers to lose access to postal services.⁴ Consequently, the Postal Service submits that the section 404(d) procedures do not apply on this separate basis. Therefore, the relief requested by the petitioner is not, as a matter of law, available to Petitioner and should be denied on these grounds alone. The Postal Service will respond to these matters in greater detail in its Notice due on July 7, 2011.

Third, in earlier station and branch discontinuance appeals, the Commission has declined to grant petitioner applications for suspensions of scheduled closings. See PRC Docket No. A2011-1 (application for suspension filed on October 19, 2010; station closed on January 25, 2011; order affirming final determination issued on February 15, 2011); PRC Docket No. A2011-4 (application for suspension filed on November 22, 2010; station closed on January 15, 2011; order affirming final determination issued on March 16, 2011); PRC Docket No. A2011-5 (application for suspension filed on December 6, 2010; station closed on January 15, 2011; order affirming final determination issued on March 31, 2011); PRC Docket No. A2011-16 (application for suspension filed on May 17, 2011; station closed on June 18, 2011; expiration of decisional schedule on September 8, 2011).⁵ In these cases, the Commission did not interfere with

⁴ The Freehold Post Office is located approximately 2.2 miles away from the Freehold Trailer. Exhibit 1 (printout from "Locate a Post Office" on USPS.Com). Please note that Exhibit 1 uses the term "Post Office" for retail units staffed by postal employees, thus including stations, branches and Post Offices.

⁵ In PRC Docket No. A2011-16, the Commission stated that it "must evaluate the Application for Suspension in light of the Postal Service's well-publicized financial difficulties." The Commission acknowledged certain circumstances identified by the Postal Service, including "a number of proximate locations providing alternative access

the Postal Service's completion of scheduled closures even though the Commission had not ruled on petitioners' appeals. See *id.*

Fourth, the Postal Service investigated the facts pertaining to the Freehold Trailer; the relief requested by the petitioner is not practicable to implement at this late stage and would significantly frustrate postal operational plans. The Postal Service has already made numerous arrangements to implement the final determination, including the following:

- Provided notice to the lessor of the trailer, a certain number of days in advance of July 29, 2011— in accordance with the lease – that the Postal Service would be terminating its lease;
- Arranged for the premises to be vacated in a timely fashion with all postal owned equipment removed;
- Made arrangements for relocating affected employees currently working at the Freehold Trailer, in accordance with applicable standards; and
- Scheduled various operational changes to coincide with the discontinuance of the Freehold Trailer on July 29, 2011.

Thus, Postal Service operational plans for an efficient transition would be frustrated and costly if the Commission were to grant the requested relief. Also, many customers of the Freehold Trailer have made and scheduled their own

to retail postal services” and that alternative service arrangements, if deferred, would “be disrupted and cause unnecessary expenditures.” Under these circumstances, the Commission denied the application for suspension. PRC Order No. 748, Order Denying Application for Suspension, PRC Docket No. A2011-16 (June 17, 2011), at 2-3.

adjustments to accommodate their needs to send and receive mail based on the scheduled July 29, 2011 discontinuance.

For the reasons set forth above, Petitioner's application for suspension of the scheduled closing of the Freehold Trailer should be denied.

Respectfully submitted,

UNITED STATES POSTAL SERVICE
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July 5, 2011

EXHIBIT 1



A service of



Post Office™ Locations

[PRINT](#) | [BACK](#)

Post Office™ Locations near 07728



- 1 Post Office™**
Location -
LAFAYETTE STA
 13 LAFAYETTE ST
 FREEHOLD, NJ
 07728-3501
 (800) ASK-USPS
 (800) 275-8777
 0.0 mi

Business Hours
 Mon-Fri
 8:30am-4:30pm
 Sat
 9:00am-1:00pm
 Sun
- 2 Post Office™**
Location -
FREEHOLD
 200 VILLAGE
 CENTER DR
 FREEHOLD, NJ
 07728-9998
 (800) ASK-USPS
 (800) 275-8777
 2.2 mi

Business Hours
 Mon-Fri
 8:30am-5:00pm
 Sat
 9:00am-1:00pm
 Sun

Services
[Passport Application](#)
[Services](#)
[Automated Postal Centers®](#)

Service hours may vary. Please check link for business hours.
- 3 Post Office™**
Location -
ADELPHIA
 16 WYCKOFF MILLS
 RD
 ADELPHIA, NJ 07710-
 9800
 (800) ASK-USPS
 (800) 275-8777
 3.1 mi

Business Hours
 Mon-Fri
 7:30am-4:30pm
 Sat
 8:00am-12:00pm
 Sun

Services
[Passport Application](#)
[Services](#)

Service hours may vary. Please check link for business hours.
- 4 Post Office™**
Location -
TENNENT

Business Hours
 Mon-Fri
 8:00am-1:00pm

420 MAIN ST
TENNENT, NJ 07763-
9800
(800) ASK-USPS
(800) 275-8777

1:30pm-4:30pm
Sat
8:00am-12:00pm
Sun

3.4 mi

5 Post Office™

Location -
MARLBORO
8 S MAIN ST STE 1
MARLBORO, NJ
07746-9998
(800) ASK-USPS
(800) 275-8777

Business Hours

Mon-Fri
8:30am-7:00pm
Sat
8:30am-4:00pm
Sun

Services

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3.9 mi

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